

## **Calendar No. 149**

115TH CONGRESS }  
    *1st Session* }

**SENATE**

{ REPORT  
115-112

AMENDING THE INDIAN HEALTH CARE IMPROVEMENT ACT TO ALLOW THE INDIAN HEALTH SERVICE TO COVER THE COST OF A COPAYMENT OF AN INDIAN OR ALASKA NATIVE VETERAN RECEIVING MEDICAL CARE OR SERVICES FROM THE DEPARTMENT OF VETERANS AFFAIRS, AND FOR OTHER PURPOSES

JUNE 15, 2017.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,  
submitted the following

R E P O R T

[To accompany S. 304]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 304) to amend the Indian Health Care Improvement Act to allow the Indian Health Service to cover the cost of a copayment of an Indian or Alaska Native veteran receiving medical care or services from the Department of Veterans Affairs, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

## PURPOSE

The purpose of this bill is to amend section 222(a) of the Indian Health Care Improvement Act (IHCIA). It would authorize the Indian Health Service (IHS) to cover the cost of copayments for American Indian or Alaska Native (collectively referred to as "Indian") veterans receiving medical care or services from the Department of Veterans Affairs (VA) upon an authorized referral from the IHS. The bill would require an MOU between the IHS and VA that allows the IHS to use Purchase Referred Care Program funds (PRC) to cover the cost of VA copayments assessed upon Indian veterans who are treated, through a IHS referral, at a VA facility. Under the PRC program the IHS may reimburse private non-IHS healthcare providers for treating Indian patients using PRC dollars (PRC dollars).

#### NEED FOR LEGISLATION

This bill is needed to amend current federal law to clarify that the IHS is authorized to use PRC funding to cover the copayment cost of an Indian veteran being treated at a VA healthcare facility with an approved referral from an IHS provider.

#### BACKGROUND

Originally enacted in 1976<sup>1</sup> the IHCIA was permanently authorized as part of the Patient Protection and Affordable Care Act.<sup>2</sup> The IHCIA governs many programs for the provision of health care services and programs for Indians.

The IHS is the primary agency responsible for providing federal health care services to Indians either directly or through contracts negotiated with Indian tribes. When specific healthcare services are not available through IHS or tribal providers, the IHS may, through the PRC program, provide referrals to Indian patients so that they can be treated by non-IHS healthcare providers.

The IHCIA allows for the IHS and VA to enter into agreements for the reimbursement of healthcare services.<sup>3</sup> Under federal law IHS can be reimbursed by the VA for providing services for eligible beneficiaries.<sup>4</sup> However, according to IHS, under current federal law<sup>5</sup> there is no authority for a provider, including VA, to impose financial liability on a patient pursuant to an authorized PRC referral.<sup>6</sup> The prohibition against liability of payment for health services to Indian patients would include a VA copay assessed for Indian veterans that receive care at VA facilities pursuant to an IHS referral. As a result, VA is not able to be reimbursed through PRC funds for the copay assessed Indian veteran who has received services at a VA facility.

#### LEGISLATIVE HISTORY

On February 3, 2017, Senator Thune introduced S. 304 with Senator Rounds as a cosponsor. A previous version of this bill, S. 304 was introduced in the 114th Congress. At the legislative hearing held on May 11, 2016, on the previous version of this bill, Roger Trudell, Chairman of the Santee Sioux Tribe and Indian veteran, testified in favor of the bill. The administration did not provide testimony on the bill at the hearing. On March 28, 2017 at a duly called business meeting, the Committee voted to approve S. 304, without amendment. The Committee then ordered the bill to be reported favorably without amendment to the Senate.

#### SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

##### *Section 1. Short title*

Section 1 titles the bill as the “Tribal Veterans Health Care Enhancement Act.”

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<sup>1</sup> Pub. L. No. 94–437, Sept. 30, 1976, 90 Stat. 1400 (codified at 25 U.S.C. §§ 1601–1683).

<sup>2</sup> Pub. L. No. 111–148, Mar. 23, 2010, 124 Stat. 119 (codified at 42 U.S.C. § 18001 et seq.).

<sup>3</sup> 25 U.S.C. § 1645(a)(1).

<sup>4</sup> 25 U.S.C. § 1645(c).

<sup>5</sup> See 25 U.S.C. § 1623(b) and 25 U.S.C. § 1647(c) as cited in official congressional correspondence with IHS.

<sup>6</sup> 25 U.S.C. 1621u.

*Section 2. Liability for payment*

Section 2 amends the IHCIA by adding a section that allows for the IHS to reimburse the VA for the cost of a co-pay assessed by the VA to an eligible Indian veteran for medical care at a VA facility.

*Section 3. Copayments for tribal veterans receiving certain medical services*

Section 3(a) amends the IHCIA to provide that copayment reimbursement by the IHS to the VA can only be for:

- Indian veterans;
- that receive an authorized referral from the IHS;
- for medical services provided by the VA at a VA facility.

Section 3(b) provides that the VA and the IHS shall enter into a memorandum of understanding (110U) that provides for process of payment and reimbursement of VA assessed co-payments between the IHS and the VA.

Section 3(c) provides that the IHS is authorized to provide for the payment of the VA assessed co-payments.

Section 3(d) provides that the VA is authorized to accept funds from the IHS for reimbursement of the assessed VA co-payments.

Section 3(e) directs that no later than 90 days after the enactment of S. 304, the IHS and the VA report to Congress:

- the number, by state, of eligible Indian veterans utilizing VA medical facilities;
- the number of referrals, by state, received annually from the Indian Health Service from 2011 to 2016; and
- provide an update on efforts at the VA and IHS to streamline care for eligible Indian veterans who receive care at both the VA and the IHS including changes required under the Indian Health Care Improvement Act and any barriers to achieve efficiencies.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated May 2, 2017.

Hon. JOHN HOEVEN,  
*Chairman, Committee on Indian Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 304, the Tribal Veterans Health Care Enhancement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Stewart.

Sincerely,

KEITH HALL.

Enclosure.

*S. 304—Tribal Veterans Health Care Enhancement Act*

S. 304 would allow the Indian Health Service (IHS) to cover the cost of any copayment assessed by the Department of Veterans Affairs (VA) to an eligible Indian veteran who is referred to the VA for treatment. Based on an analysis of information from an IHS re-

port regarding Indian veterans, CBO estimates that there would be, on average, about 5,000 Indian veterans treated annually at IHS facilities over the 2017 to 2021 period. Some of them would be referred to VA health facilities for more complex care that could not be provided at IHS facilities. A small percentage of those referred veterans would make copayments based on their VA priority group. Using information provided by the VA regarding the collection of copayments, CBO estimates that S. 304 would cost less than \$500,000 over the 2017 to 2021 period; such spending would be subject to the availability of appropriated funds. Enacting S. 304 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 304 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 304 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments. American Indian and Alaska Native military veterans would benefit from provisions that would authorize IHS to make copayments for medical treatment received from the VA.

The CBO staff contact for this estimate is Robert Stewart. The estimate was approved by Holly Harvey, Deputy Assistant Director for Budget Analysis.

#### EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 304.

#### REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 304 will have a minimal impact on regulatory or paperwork requirements.

#### CHANGES IN EXISTING LAW (CORDON RULE)

On January 31, 2017, the Committee on Indian Affairs unanimously approved a motion to waive the Cordon rule. Thus, in the opinion of the committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

